



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 17 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Pioneer Metals, Inc.
Agent: Patrick J. Flynn
23 Public Square #440
Belleville, IL 62220



Re: Request for Information Pursuant to Section 104(e) of CERCLA regarding Chemetco, facility in Hartford, Madison County, Illinois

Dear Sir or Madam:

This letter seeks your cooperation in providing information and documents relating to the Chemetco facility in Madison County, Illinois (Site). The Site has been listed on the National Priorities List (NPL) under the federal Superfund law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.*, commonly referred to as "CERCLA"). This is because the Site is contaminated with hazardous substances that may present a threat to human health or the environment.

The United States Environmental Protection Agency (EPA or "Agency") is investigating the release, or threat of release, of hazardous substances, pollutants or contaminants at the Site. EPA is seeking information concerning the generation, storage, treatment, transportation, and disposal of hazardous substances that have been, or threaten to be, released from the Site. Currently, EPA is identifying activities, materials, and parties that contributed to contamination at the Site. Ultimately, EPA, or by agreement, responsible parties, will study the effects of these substances on the environment and public health and implement required response actions, as appropriate. EPA believes that you possess information which may assist the Agency in its investigation of the Site. Enclosure 1 provides background and historical information concerning the Site and Enclosure 2 provides a map of the Site.

We make this request under Section 104(e)(2) CERCLA, which gives EPA the authority to assess the threats to human health and the environment posed by contaminated sites and to clean up those sites. Under CERCLA, EPA has information-gathering authority that allows the Agency to require persons and corporations to furnish information and documents. Enclosure 3 is a summary of the Agency's legal authority under CERCLA. Enclosure 4, for your information, is a deposition of Mr. John Suarez, taken in 1998 for the case of *Chemetco Inc. vs. United States of America*, No. 97-82-T. Pioneer Metals is identified as an owner of Chemetco on page 91.

We encourage you to give this matter your immediate attention. Instructions to guide you in the preparation of your response are in Enclosure 5. Definitions of the terms used in this Information Request are provided in Enclosure 6. The Information Request itself is found at

Enclosure 7. You are required under law to provide a complete and truthful response to this Information Request and its questions, as well as to provide all requested documents. We request that you respond to this Request and provide requested documentation within fifteen (15) business days of your receipt of this letter.

You may consider the information that EPA is requesting confidential. Under CERCLA, you may not withhold information on that basis; but you may ask EPA to treat the information as confidential. To request that the Agency treat your information as confidential, you must follow the procedures outlined in Enclosure 8, including the requirement that you support your claim for confidentiality.

Compliance with this Information Request is mandatory. CERCLA provides that failure to answer the questions fully and truthfully and within the prescribed time frame can result in an enforcement action and penalties. Other statutes provide that the submission of false, fictitious statements, or misrepresentations can result in sanctions. Additionally, EPA has the authority to use the information that it requests in an administrative, civil, or criminal action.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501, *et seq.*

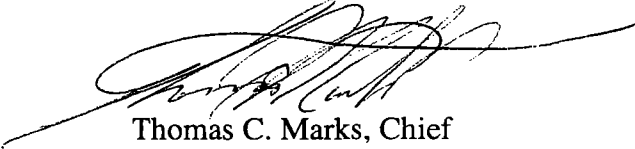
Your response to the information request should be sent back to EPA within fifteen (15) business days of your receipt of this letter. Your response should be sent to:

Marsha Adams, Enforcement Specialist
U.S. Environmental Protection Agency
Remedial Enforcement Support Section
77 W. Jackson Blvd., SR-5J
Chicago, IL 60604-3590

If you have any legal questions, please call Thomas Martin, Associate Regional Counsel, at (312) 886-4273. If you have technical questions about this Site, please call Michelle Kerr, Remedial Project Manager at (312) 886-8961. Address all other questions to Marsha Adams, Enforcement Specialist at (312) 353-9484.

We appreciate your assistance and look forward to your prompt response to this Information Request.

Sincerely yours,



Thomas C. Marks, Chief
Enforcement Services Section #2

Enclosures

1. Site Background/History
2. Site Map
3. Legal Authority
4. Deposition
5. Instructions
6. Definitions
7. Information Request
8. Confidential Business Information

SITE BACKGROUND

Chemetco is located approximately two miles south of the Village of Hartford, Madison County, Illinois. Chemetco was a former secondary copper smelter which operated from 1969 to 2001. The Chemetco property occupies more than 230 acres of land, but the former smelter only operated on 41 acres (the smelter site). Chemetco's major function was recycling or secondary processing of copper-bearing scrap and manufacturing residues. This process produced waste byproducts such as slag, zinc oxide (scrubber sludge), and spent refractory brick. On October 31, 2001, Chemetco shut the facility down, and filed for Chapter 7 bankruptcy on November 13, 2001. On December 7, 2001, the Illinois EPA (IEPA) issued an order to seal Chemetco.

In the course of its operations, Chemetco stockpiled approximately 452,254 cubic yards of waste material called "slag" on the northeast corner of the facility property. In addition, IEPA and United States Environmental Protection Agency (EPA) have identified approximately 62,204 cubic yards of zinc oxide (scrubber sludge) located in five separate areas on the Chemetco property, including a 2.5 acre concrete bunker located at the north end of the facility. Elevated levels of cadmium, chromium, copper, lead, mercury, and zinc, among other heavy metals, have been found in the waste materials present at the Site. In addition, elevated levels of cadmium, copper, lead, and zinc, among other heavy metals, have been found in the wetlands and sediments of Long Lake and its tributary, downstream of Chemetco.

The trustee for the estate of Chemetco is now in the course of liquidating the bankrupt company's assets. The facility has been secured with fencing around the perimeter of the 41 acre site. The State of Illinois and EPA have each filed claims in federal court to address contamination on and off the Site, including the lead, cadmium and zinc detected in wetlands and Long Lake downstream of Chemetco. To better enable use of governmental authority under CERCLA, the federal law that addresses hazardous substances, the State proposed the Site for the National Priorities List (NPL) in 2009. EPA placed the Site on the NPL on March 3, 2010. Placing a Site on the NPL allows EPA to fund and implement remedial actions at the Site. CERCLA also authorizes EPA to recover funds it expends on such sites from responsible parties.

Enclosure 2

SITE MAP

DESCRIPTION OF LEGAL AUTHORITY

The federal Superfund law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.* (commonly referred to as CERCLA or Superfund) gives EPA the authority to, among other things: 1) assess contaminated sites, 2) determine the threats to human health and the environment posed by each site; and 3) clean up those sites.

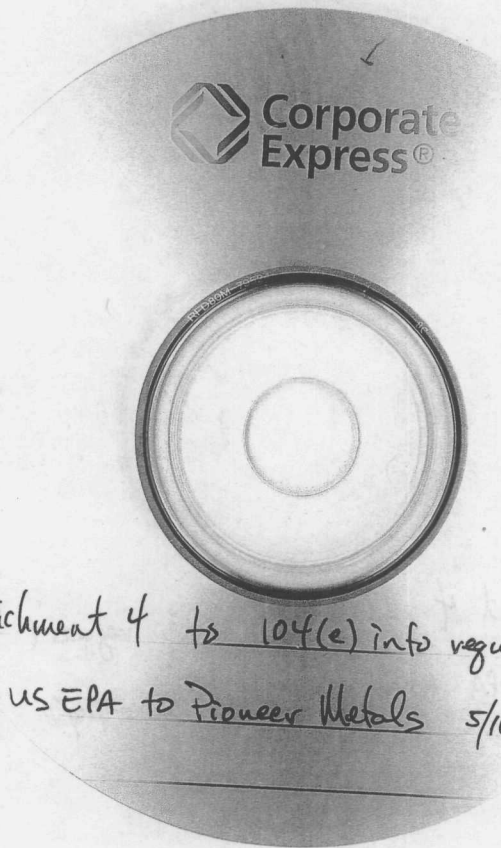
Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), EPA has broad information gathering authority which allows EPA to require persons to furnish information or documents relating to:

- A. The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility, or transported to a vessel or facility;
- B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at/or from a vessel or facility;
- C. The ability to pay the costs of the clean-up.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request and within the prescribed time frame can result in an enforcement action by EPA pursuant to Section 104(e)(5) of CERCLA. This Section also authorizes an enforcement action with similar penalties if the recipient of the Request does not respond and does not justify the failure to respond. Other statutory provisions (18 U.S.C. § 1001) authorize separate penalties if the responses contain false, fictitious or fraudulent statements. The EPA has the authority to use the information requested in this Information Request in an administrative, civil or criminal action.

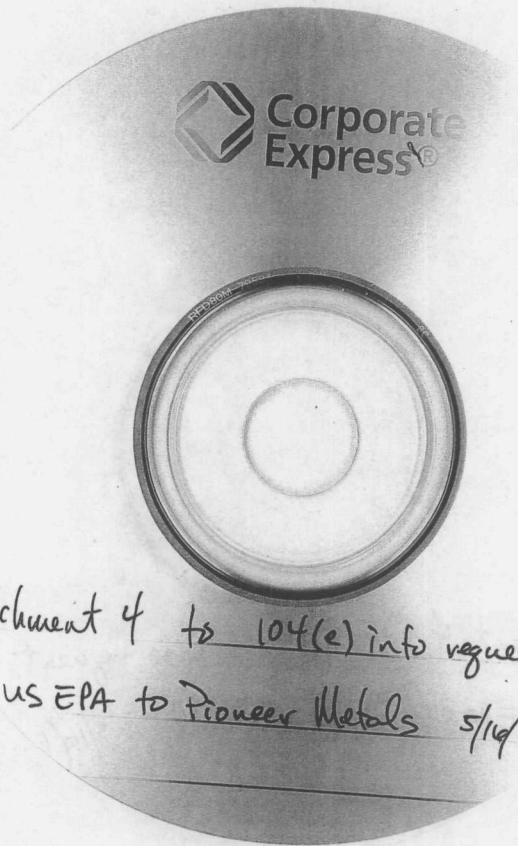
Enclosure 4

DEPOSITION TRANSCRIPT



Enclosure 4

DEPOSITION TRANSCRIPT



Enclosure 5

INSTRUCTIONS

1. Answer each of the questions in this Information Request separately.
2. Precede each answer with the number of the question to which it corresponds.
3. In answering each question, identify all persons and contributing sources of information.
4. Although the EPA seeks your cooperation in this investigation, CERCLA requires that you respond fully and truthfully to this Information Request. False, fictitious, or fraudulent statements or misrepresentations may subject you to civil or criminal penalties under federal law. Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes the EPA to pursue penalties for failure to comply with that Section, or for failure to respond adequately to requests for submissions of required information.
5. You must supplement your response to EPA if, after submission of your response, additional information should later become known or available. Should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA as soon as possible.
6. For any document submitted in response to a question, indicate the number of the question to which it responds.
7. You must respond to each question based upon all information and documents in your possession or control, or in the possession or control of your current or former employees, agents, contractors, or attorneys. Information must be furnished regardless of whether or not it is based on your personal knowledge, and regardless of source.
8. Your response must be accompanied by the following statement, or one that is substantially equivalent:

I certify under penalty of law that this document and all enclosures were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. The individual who prepared the response or the responsible corporate official acting on behalf of the corporation must sign and date the statement, affidavit, or certification. Include the corporate official's full title.

9. If any of the requested documents have been transferred to others or have otherwise been disposed of, identify each document, the person to whom it was transferred, describe the circumstances surrounding the transfer or disposition, and state the date of the transfer or disposition.
10. All requested information must be provided notwithstanding its possible characterization as confidential information or trade secrets. If desired, you may assert a business confidentiality claim by means of the procedures described in Enclosure 8.

DEFINITIONS

The term **person** as used herein includes in the plural as well as the singular any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.

The term **any**, as in **any documents** for example, shall mean "any and all."

The terms **document** and **documents** shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, telecopy, telefax, report, notice, message, analysis, comparison, graph, chart, map, interoffice or intra office communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any computer disk, any information stored on a computer hard drive or memory tape or other type of memory generally associated with computers and data processing; and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document.

The Site referenced in these documents shall mean the former Chemetco facility located on Illinois Route 3 in Hartford, Madison County, Illinois (See Enclosure 2).

The terms **hazardous substance** shall have the same definition as that contained in Section 101(14) of CERCLA, including any mixtures of such hazardous substances with any other substances, including petroleum products.

The terms **pollutant** or **contaminant** shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances.

The term **release** shall have the same definition as that contained in Section 101(22) of CERCLA, and means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, pollutant, or contaminant.

The term **identify** means, with respect to a natural person, to set forth the person's full name, present or last known business address, and business telephone number; present or last known home address, and home telephone number; and present or last known job title, position, or business.

The term ***identify*** means, with respect to a corporation, partnership, business, trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

The term ***identify*** means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter. The term material shall mean any substance.

The terms ***you*** or ***your company*** or ***Respondent*** refer not only to the addressee of this letter as it is currently named and constituted, but also to all predecessors and successors in interest of the addressee, and all subsidiaries, divisions, affiliates, and branches of the addressee and its predecessors and successors.

All terms not defined herein will have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R. Part 300, or 40 C.F.R. Parts 260-280, in which case, the statutory or regulatory definitions will apply.

INFORMATION REQUEST

1. Provide the following information about Pioneer Metals, Inc. ("you," "your company" or "Respondent"):
 - i. The complete and correct legal name of your company.
 - ii. The name(s) and address(es) of the President and the Chairman of the Board, or other presiding officer of the company.
 - iii. The state of incorporation of the company and the company's agents for service.
 - iv. The name(s) of all subsidiaries, affiliates, or parent companies to your company.
 - v. The state of incorporation and agents for service of process in the state of incorporation.
 - vi. The status of all subsidiaries, affiliates, or parent companies to your company.
2. Please provide a description and/or flow chart, and provide documentation on, which describes the relationship of your company to any parent or subsidiary corporations. In your description include the name and a brief description indicating the major business purpose for all other entities affiliated with your company. This description is to include an explanation of and relationship to all other related entities such as other sister entities, subsidiaries, parent entities of the parent identified in this request and all other subsidiaries to these entities.
3. Please specifically describe and provide any documents related to any relationships, including dates, your company has or had to Tri-Me Transportation, Warehouse Management Services, Inc., Transformit, Total Metals, Total Metal Recycling, Pioneer Warehouse, LC Metals, and Triangle Metallurgical. In your description include the name and a brief description indicating the major business of/purpose for these entities affiliated with your company. This description is to also include the current status of these entities.
4. Describe and provide any documents related to the corporate relationship between your company and Chemetco. If your company ever owned or became a subsidiary of Chemetco, describe the past relationships, including dates. State the names, telephone numbers and present or last known addresses of all individuals who you have reason to believe may have knowledge, information or documents regarding acquisitions of Chemetco.

5. Did you and Chemetco have, or have you or any of your subsidiaries and Chemetco ever had common directors and/or officers? If so, provide the names and dates of service of such directors and/or officers.
6. List all persons who, while not holding a formal titled position in either corporate entity (you or Chemetco), was in a position to exercise authority over financial and/or business matters of both your company and Chemetco. In your response, please provide the dates of service and duties and responsibilities of each individual identified.
7. Please describe and provide any documents related to the involvement of, and any input from, any director, officer, shareholder or employee of your company on the selection, retention, promotion or demotion of any director, officer, or employee of Chemetco.
8. Please describe and provide any documents related to the involvement of, and any input from, any director, officer, shareholder or employee of your company on the production processes utilized by Chemetco.
9. Please describe and provide any documents related to the involvement of, and any input from, any director, officer, shareholder or employee of your company on the disposal or recycling practices and methods utilized by Chemetco.
10. Please describe and provide any documents related to the involvement of, and any input from, any director, officer, shareholder or employee of your company on actions, policies, decisions or expenditures relating to compliance with environmental laws by Chemetco.
11. Please describe and provide any documents related to any joint ventures that include both corporate entities (Chemetco and your company). Your response is to include all actions, discussions and correspondence in which both entities appear or in which one of the corporate entities co-signs, endorses or guarantees the actions of the other corporate entity.
12. Please provide a copy of all corporate minutes of your company which contain discussions on or refer to any action or situation which involve Chemetco. Please provide a copy of all corporate minutes of Chemetco which contain discussions on or refer to any action or situation which involve your company.

13. Identify and provide documents related to any and all successor entities to Pioneer Metals, Inc. and each successor entity's relationship to and interest in Chemetco. Include information regarding the nature of such interest; when, how, and from whom such interest was obtained; and when, how, and to whom such interest was conveyed. In addition, submit copies of all instruments evidencing the acquisition or conveyance of such interest.
14. Has Respondent ever, verbally or in writing, guaranteed the performance of its subsidiaries/entities with respect to compliance with any federal, state or local environmental or other governmental law, regulation or policy? If so, please identify the date(s) of such guarantee and the circumstances surrounding the guarantee. Provide copies of all documents evidencing such guarantees.
15. Describe and provide any documents related to the financial arrangement between your company or its subsidiaries or successor entities, and Chemetco.
16. State what financial assistance (loans of money, loan guarantees, rental of equipment or services) you gave to each of the corporations or entities that had a financial arrangement with Chemetco, or to Chemetco. Provide copies of promissory notes or lease agreements evidencing such loans of money or rental of equipment or services to such corporations or entities. State which loans have been repaid, which have been forgiven, and which are outstanding.
17. Identify the dates during which Pioneer Metals, Inc. owned, operated or leased any portion of the Site and provide copies of any documents evidencing or relating to such ownership, operation or lease, including but not limited to purchase and sale agreements, deeds, leases, etc.
18. Describe and provide any documents related to Pioneer Metal, Inc.'s role at the Hartford facility Site, including what duties/involvement your company had at the facility.
19. Describe and provide any documents related to the nature and extent of any ownership, legal, or equitable interest that you or your subsidiaries or successor entities had in Chemetco, and when and how such interest was acquired. Include information regarding the nature of such interest; when, how, and from whom such interest was obtained; and when, how, and to whom such interest was conveyed. In addition, submit copies of all instruments evidencing the acquisition or conveyance of such interest.

20. Identify any persons who, concurrently with Pioneer Metals, Inc., exercised actual control or who held significant authority to control activities at the Site and/or with respect to the operation of the Chemetco facility.
21. Have you or any of your subsidiaries or successor entities ever provided any clerical, administrative, professional or other services or assistance to Chemetco? If so, provide a complete description of and any documents relating to the nature of services or assistance provided, along with the time period(s) during which such services or assistance was provided.
22. Have you or any of your subsidiaries or successor entities ever leased or rented any furnishings, fixtures, equipment, personal, or real property to Chemetco? If so, provide a complete description of and any documents relating to the type of property leased or rented, and the terms and duration of such arrangement.
23. Have you or any of your subsidiaries or successor entities ever provided any training of any nature to any director, officer, or employee of Chemetco? If so, provide a complete description and any documents relating to such training, including the nature of the training, who it was offered to, who participated in it (both as instructors and instructees), and when and where it was conducted.
24. Did any of the employees, officers, and/or directors of Chemetco participate in any manner in any savings programs, employee stock ownership plans, pension plans, deferred compensation or other arrangements offered or sponsored by you or any of your subsidiaries or successor entities? If so, describe and provide any documents relating to such.
25. Was Chemetco required to, or did Chemetco receive, your approval or concurrence or the concurrence of any of your subsidiaries or successor entities when making expenditures? If so, explain and provide any documents relating to such.
26. Have any of Chemetco's employees ever been employed by you or any of your subsidiaries or successor entities? If so, provide each such employee's name, job title, employing entity, and dates of employment.
27. Did Pioneer Metals or its subsidiaries or successor entities, and Chemetco ever file consolidated tax returns? If so, provide complete copies of such returns.

28. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.
29. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. For each and every question contained herein, if information or documents responsive to this Information Request are not in your possession, custody or control, then identify the persons from whom such information or documents may be obtained. If the records were destroyed, provide us with the following:
- i. the document retention policy between 1970 and 2001;
 - ii. a description of how the records were destroyed (burned, trashed, etc.) and the approximate date of destruction;
 - iii. a description of the type of information that would have been contained in the documents;
 - iv. the name, job title and most current address known by you of the person(s) who would have produced these documents, the person(s) who would have been responsible for the retention of these documents; the person(s) who would have been responsible for the destruction of these documents; and the person(s) who had and/or still may have the originals or copies of these documents; and
 - v. the names and most current address of any person(s) who may possess documents relevant to this inquiry.
30. Please state the name, title and address of each individual who assisted or was consulted in the preparation of the response to this information request.

CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information confidential that the U.S. Environmental Protection Agency (EPA or Agency) is requesting. You cannot withhold information or records upon that basis. The Regulations at 40 C.F.R. Part 2, Section 200 *et seq.* require that the EPA affords you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by the EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. (See 41 Federal Register 36902 *et seq.* (September 1, 1976); 43 Federal Register 4000 *et seq.*, (December 18, 1985).) If no such claim accompanies the information when the EPA receives it, the information may be made available to the public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e)(7) of Comprehensive Environmental Response Compensation Liability Act (CERCLA); because as stated in Section 104(e)(7) (ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish the EPA to treat the information or record as "confidential," you must advise the EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph, and sentence. You must make a separate assertion of confidentiality for each response and each document that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope "confidential," and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, e.g., until a specific date or until the occurrence of a specific event;
2. The measures that you have taken to guard against disclosure of the information to others;
3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;
4. Whether the EPA or other federal agency has made pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination;

5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information; and
6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. § 2.201(i). If you make this assertion, explain how the disclosure would tend to lessen the ability of the EPA to obtain similar information in the future; and
7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. § 2.208(e), the burden of substantiating confidentiality rests with you. The EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that the EPA may maintain their confidentiality pursuant to 40 C.F.R. § 2.205(c). If you do not identify this information and documents as "confidential," your comments will be available to the public without further notice to you.

**bcc: Marsha Adams
Tom Martin, ORC
Michelle Kerr, RPM
Thomas Marks, ESS#2 Section Chief
Record Center**